

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**FILED**
at Santa Fe, NMSTATE OF NEW MEXICO *ex rel.*
State Engineer,

Plaintiff,

ROMAN ARAGON, *et al.*,

Defendants.

SEP 30 2005

No. CV 7941 ⁶⁹⁻ ~~18~~ BBMATTHEW J. DYKMAN
CLERK

RIO CHAMA Stream System

Sections 3, 5 and 7

**UNOPPOSED MOTION FOR EXTENSION OF CERTAIN DEADLINES RELATING
TO FEDERAL NON-INDIAN WATER RIGHTS CLAIMS**

The State of New Mexico *ex rel.* State Engineer ("State") requests the Court to amend the March 1, 2005 Scheduling Order for Federal Non-Indian Water Rights Claims (Docket No. 7770) to extend by 120 days the deadlines for determining the federal non-Indian, non-Wild and Scenic River claims ("Federal Proprietary Claims") made by the United States in Section 5 of this adjudication. In addition, the State requests the Court to amend the Scheduling Order to extend the deadlines for the determination of the Federal Proprietary Claims made by the United States in Section 3 by one year. The grounds for this motion are as follows:

1. The March 1, 2005 Scheduling Order required the State to issue proposed Consent Order(s) to the United States by no later than July 31, 2005, addressing each of the Federal Proprietary Claims made by the United States in **Section 5**, and also serve a copy of the proposed Consent Order(s) on counsel for the Gallina-Capulin Acequia Association.

2. The Scheduling Order sets forth September 30, 2005 as the deadline for the United States to file objections, if any, to the State's proposed Consent Order(s), and for any acequia within **Section 5**, if it has an objection, to file a Motion to Intervene.

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3. The State anticipates that the Federal Claims can be adjudicated by consent order. However, because of the number (125) and complexity of the Federal Proprietary Claims in Section 5, the State has not yet been able to finalize proposed Consent Order(s) for these claims, and therefore, it has not served either the United States or the Gallina-Capulín Acequia Association. The State anticipates that it will require an additional 60 days to prepare the proposed Consent Order(s).

4. The United States and the acequias in the Gallina-Capulín Acequia Association will need at least 90 days after service of the Consent Orders to review the proposed Consent Orders to determine whether either party has objections.

5. The Scheduling Order further provides that September 30, 2005 is also the deadline for completion of field inspections of the United States claim sites in **Section 3**.

6. As required by the Scheduling Order, the State has been actively conducting field inspections of the United States claim sites in **Section 3**, spending three days and two nights per week in the field, and the representatives of the acequias in the Gallina-Capulín Acequia Association have been invited to participate. The State has attempted to investigate as many claims as possible this field season, surveying the location using GPS equipment with a minimum of 30 data points, noting the condition of the tanks, wells and springs, and taking measurements of the perimeter and depth of tanks and the production rate of wells and springs, to the extent possible, as necessary to fully adjudicate the various claims. However, because many of the over 170 claim sites are hard to locate on the ground and difficult to access, the State has been able to inspect only 30 sites so far this field season, which is nearly over. The State has therefore been unable to complete the field inspections of the United States claim sites in Section 3 by September 30, 2005.

7. The State anticipates that it will require at least one more full field season in order to complete the field inspections of the United States claim sites in **Section 3**.

8. Counsel for the Gallina-Capulin Acequia Association does not oppose this motion.

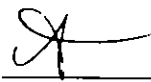
9. Counsel for the United States does not oppose this motion.

10. Counsel for the State was unable to reach counsel for the Asociacion de Acequias Nortenass de Rio Arriba Acequias Nortenass to seek concurrence in this motion.

11. A proposed Order is attached hereto for the Court's consideration.

WHEREFORE, the State of New Mexico *ex rel.* State Engineer requests the Court to enter an Order vacating the deadlines for determination of the Federal Proprietary in Sections 3 and 5 of this adjudication; extending the deadlines for the State to submit proposed Consent Order(s) to the other parties in **Section 5** to November 30, 2005 and for the United States to file objections and the acequias in that section to file Motions to Intervene to February 28, 2006; and extending the deadlines for the State to complete field inspections in **Section 3** to October 2, 2006, to issue proposed Consent Order(s) to January 31, 2007, and February 28, 2007 for the United States to file objections, if any, to the State's proposed Consent Order(s) and for any acequia in the Asociacion de Acequias Nortenass de Rio Arriba to file a Motion to Intervene.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of this pleading was served via first class mail on the following persons on the 30th day of September, 2005.

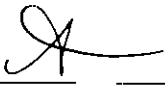
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